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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

LARRY WILLIAMS,

Defendant and Appellant.

B206609

(Los Angeles County  
Super. Ct. No. BA309493)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Lisa M. Chung, Judge. Affirmed.

Allan Stern, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

## STATEMENT OF THE CASE

On October 19, 2006, the Los Angeles District Attorney filed an information charging appellant with second degree robbery (§211.)<sup>1</sup> The information alleged that the crime committed was a violent and a serious felony. (§§667.5, subd. (c); 1192.7, subd. (c).)

On December 1, 2006, appellant waived his rights to a trial and pled no contest. On January 10, 2007, the date set for sentencing, appellant failed to appear in court. As a result, the court ordered a bench warrant issued and held until January 25, 2007. On January 25, 2007, the bench warrant was issued. On February 23, 2007, appellant appeared in court as a bench warrant pickup. At that time, he was remanded to custody without bail.

On June 11, 2007, the trial court proceeded with appellant's sentencing; imposition of sentence was suspended and appellant placed on formal probation for three years. As a condition of probation, appellant was ordered to serve 296 days in custody with credit for 296 days already served.

On October 11, 2007, based on the filing of a new case (MA039940), the court preliminarily revoked appellant's probation and remanded him into custody. The court set a hearing on his violation of probation to trail the new case.

On February 5, 2008, a contested probation revocation hearing was conducted and the court found appellant in violation of probation.<sup>2</sup> The same day appellant was sentenced to the upper term of five years in state prison and given a total of 381 days of pre-sentence custody credits.

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<sup>1</sup> All undesignated statutory references are to the Penal Code.

<sup>2</sup> On February 4, 2008, the prosecution elected to proceed on the probation violation in this case and not on the newly filed case.

On March 13, 2008, appellant filed a timely Notice of Appeal. On the same date the court granted appellant's request for a certificate of probable cause.

### **STATEMENT OF FACTS**

On December 1, 2006, after waiving his constitutional rights, appellant pled no contest to second degree robbery. Based on a stipulation by the parties, the court found there to be a factual basis for the plea.

Appellant also waived his right to a formal probation revocation hearing in two additional cases (5AT00467, 6AV05419) and admitted to being in violation of probation on those cases based upon this case and for his failure to enroll in a domestic violence program required for case no. 6AV05419. In case no. 5AT00467 probation was revoked and terminated. In case no. 6AV05419, probation was revoked and reinstated on its original terms and conditions, with appellant to receive credit for 132 days of presentence custody credits.

As a result of appellant's plea, imposition of sentence was suspended and appellant was placed on three years of formal probation. Appellant was given a total of 296 days of presentence custody credits. He was ordered to participate in an outpatient drug treatment program as directed by the probation department.

As noted above, appellant was arrested on new charges. However the prosecution elected to proceed on the probation violation in this case and not on the new case filed. A contested probation revocation hearing was held on these charges on February 5, 2008.

At that hearing, Carol Roberson testified that she was familiar with appellant from their having attended AA meetings together. Roberson testified that she lived on Honeybee Lane in Lancaster, California. On September 25, 2007, appellant called Roberson and asked her to pick him up and bring him to her house. Roberson agreed, picked appellant up and they spent approximately 45 minutes together alone at her house. While there appellant asked Roberson if he could borrow \$20. Roberson agreed and entered the walk-in closet in the master bedroom for about five minutes to get the money. At the time Roberson entered her closet, appellant was standing in the hallway. By the

time she came out of the closet, appellant was standing in her bedroom between her bed and the television, approximately three feet from her bedroom dresser.

Roberson could not give appellant \$20 because all she had was a \$100 bill. They drove to a gas station where Roberson pumped some gas and broke the bill. She then drove appellant to Palmdale and gave him the \$20 loan.

Roberson's home was burglarized the following morning. She first learned her home had been burglarized when she received a phone call from her children around 11:00 a.m. After the police responded to her home that afternoon, she was given a description of the burglar from a neighbor that matched the clothing appellant had been wearing the previous night.

Around 6 p.m. that same day, Roberson went to visit a friend who lived in appellant's neighborhood. She saw appellant on the street and decided to confront him about the burglary of her home. Appellant first denied any involvement, he then tried to run away, but fell down. Roberson detained him and confronted him again about the burglary.

Roberson asked appellant to empty his pockets, which he did. When he emptied his pockets, Roberson found that appellant was in possession of her Razor Motorola cell phone charger, toenail clippers and one blue and one green Bic plastic lighters. Based on certain unique characteristics, Roberson recognized all of these items as coming from her home. She had last seen the items on the dresser in her bedroom.

Many other things were missing from Roberson's home, including money from her closet and dresser, hats, phones, change and jewelry. None of the other missing items were in appellant's possession, nor were they ever recovered by the police. She never gave appellant permission to take her property.

Roberson acknowledged that there were other people present at the scene where she confronted appellant. However, she stated she could not say whether a bunch of people tried to jump appellant. All she saw was herself with appellant, and that she detained him until police arrived.

Ultimately the police returned her phone charger and toenail clippers. However the lighters were broken on the street, never taken into evidence or returned to her possession. She believed that appellant's residence was searched by the police, however nothing further was returned to her.

Appellant testified that he was at Roberson's house the night of September 25, 2007. However, he claimed he never went into her bedroom that night, nor did he ever see her enter her closet. He denied having anything to do with the burglary, or receiving from anyone else a charger, nail clippers or cigarette lighters.

Appellant acknowledged that on the evening of September 26, 2007, Roberson confronted him about the burglary at her home. He denied any involvement. Appellant claimed that he was assaulted by people including Roberson and that the items recovered from his person belonged to him. Appellant admitted that on the day he was confronted by Roberson he had used cocaine.

The trial court held that under a totality of circumstances, it was more likely than not that appellant had a connection to the items which would support charges of petty theft and receiving stolen property. Additionally, by appellant's own admission, he had been under the influence of crack cocaine, also a violation of the conditions of probation. Accordingly, the court found appellant to be in violation of his probation.

Based upon the balance of extensive prior criminal history, the court sentenced appellant to the upper term sentence of five years.

### **DISCUSSION**

We appointed counsel to represent defendant on appeal. On July 31, 2008, appointed counsel filed a brief in which no issues were raised. (*People v. Wende* (1979) 25 Cal.3d 436, 441-442.) On July 31, 2008, we advised defendant he had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or argument he wished this court to consider. To date no response has been received.

We have examined the entire record and are satisfied that defendant's appellate attorney has fully complied with their responsibilities and that no arguable issues

favorable to him exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 279-280; *People v. Wende, supra*, 25 Cal.3d at pp. 441, 443.)

**DISPOSITION**

The judgment is affirmed.

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COOPER, P. J.

We concur:

RUBIN, J.

BIGELOW, J.